



Performing Arts Legacy Project

A Guide to Clearing Rights for Performing Arts Professionals

© Research Center for Arts and Culture | Entertainment Community Fund, 2022

Last Updated February 2022

Disclaimer: *A Guide to Clearing Rights for Performing Arts Professionals* (the “Guide”) is for educational purposes only and was created by The Research Center for Arts and Culture and the Entertainment Community Fund. The Guide was created to educate professionals in the Performing Arts Legacy Project (“PAL Project”), as they document their legacies, of frequent legal issues professionals encounter while creating archival websites and not to provide legal advice. Before reproducing any materials, we strongly recommend that readers consult an attorney independently.

¹ This Guide is primarily authored by Joan Jeffri and Caroline Keegan, Esq. Ms. Jeffri wishes to thank Ada Irem Karacal and Richard Masur for their initial research and Summary contributions. Ms. Jeffri also thanks the students of the Samuelson-Glushko Intellectual Property and Information Law Clinic at Fordham Law School (namely, Sylvia Cheong, Grant Emrich, Anthony Farrell, Jonathan Fisher, and Danny Kim) for their assistance in updating the Guide.

Table of Contents

I. Introduction	4
II. Understanding Copyright Law	4
A. What Is Copyright?	4
B. Common Performance Materials Protected By Copyright	6
1. Photographs	6
2. Audiovisuals: Film, TV, Etc.	7
3. Articles/Reviews	7
4. Promotional Materials	8
5. Music	8
6. Choreography	9
7. Costume Design	9
8. Set, Lighting, And Projection Design	9
9. Scripts And Notes	10
10. Contracts	10
C. Common Exceptions To Clearing Copyright	11
1. Facts And Fact Organization	11
2. Links	11
3. Public Domain	11
4. Fair Use	12
5. Creative Commons	13
D. Further Copyright Considerations	13
1. Including A “Credit Line”	13
2. Deceased Author/Orphaned Works	13
3. Works Registered With The Copyright Office	14
4. International Works	14
E. Copyright Licensing Organizations And Departments	14
III. Further Legal Considerations	15
Appendices	16
Appendix A	16
Appendix B	18
Appendix C	Error! Bookmark not defined.

Note: We have provided some annotations in [purple](#) below their related section to summarize the basic points of the Guide. However, we strongly insist that you carefully read and understand the full text of the Guide and not rely on the summaries.

I. Introduction

Navigating legal issues often proves challenging for professionals as they seek to publicly document and archive their legacies. The goal of the Guide is to provide information and direction on some key legal issues that professionals in the performing arts must address as they pass along the lessons of their experience and careers. The Guide is meant specifically to educate professionals about legal issues on a very general level; specific questions relating to each professional's own personal website will likely require consultation with an attorney who specializes in arts issues.

II. Understanding Copyright Law

A. What Is Copyright?

A major undertaking and responsibility when it comes to archiving and displaying creative works on a website is to comply with laws that protect copyrights.¹ Understanding Copyright Law and how it may impact each PAL Project webpage is difficult. The Guide is meant to offer the very basics to get professionals started in developing an online living archive.

A "Copyright" is a set of rights granted to an author that are designed to protect original works that are fixed in a tangible medium of expression. Copyright holders control five basic exclusive rights to their work: (1) the right to make copies of the work and to reproduce it in various formats; (2) the right to make derivative works (that is, to create new work based on or derived from the original work (such as producing a film based on a book); (3) the right to publicly distribute their work; (4) the right to publicly perform their work (sound recordings have a narrower performance right, which extends only to certain digital transmission); and (5) the right to publicly display their work (which is at issue when creating your PAL Project website with other individual's work).

A copyright owner also has the right to assign, license or sell, to any extent, to any person, any or all of the five rights on an exclusive or non-exclusive basis (non-exclusive meaning the owner may give the same license to multiple people). Owning a physical copy of a work is not the same as owning the Copyright and does not convey to you any of the above five rights. **You can own a physical work yet have no right to post a photograph of it on your website.**

Copyrights generally last for 70 years after the death of the author, but this can vary if a work is "made-for-hire" (as discussed below), or if the work was first publicly distributed before 1978 (when the current Copyright Laws took effect). It is essential for you to gather all relevant facts

¹ This guide focuses on United States Copyright law, but you should keep in mind that works originating outside the U.S. may be protected by similar, yet slightly different sets of laws.

about the work you wish to post, so that you can determine what permissions will be required. You should always assume the works you encounter are protected by Copyright Law, including: pictorial, graphic, sculptural, literary, musical (including melody and lyrics), dramatic, pantomime, choreographic, sound recording, architectural, and audiovisual works including motion pictures. The assumption applies unless (1) the Copyright's owner definitively tells you, preferably in writing, that the works in question are not protected, (2) the works are solely facts (e.g., a like a list of actors in a performance), (3) the Copyright's owner gives you definitive permission (or "clearance"), or (4) an attorney definitively advises you that you can use the work without seeking permission. As discussed below, Copyright has expired for all works published in the U.S. before 1926. If a work was published in the U.S. before January 1, 1926, then that work is in the public domain (as discussed later in the Guide) and may be used freely.

As a general matter, in order to have Copyright protection a work must meet two basic requirements. First, the work must be an original work of authorship, displaying a modicum of creativity. Second, the Work must be fixed in a "tangible medium," meaning it must be in physical form, such as paper, film, CD, DVD, etc. Computer memory can suffice. This is a crucial point to consider for dancers.

Copyright protects all kinds of creative endeavors that professionals may come across, such as: photographs, articles, news, choreography, dance, sound recordings, lyrics, music, architecture, audiovisual, motion pictures, trailers, sculptures, television, awards shows, video (full films, short clips, screen grabs), set designs, costumes, costume designs, sketches, story boards, screenplays, books, written performance reviews, advertisements (print and video), promotional materials, illustrations, playbills, posters, graphic design, designed invitations, paintings, video games and audio recordings.

Once you identify that a work is protected, you will need to clear permission from the Copyright's owner. This may be the original author who made the work, or someone else who obtained the right from the author. While an oral agreement, such as a promise by telephone, is legally binding, written permission is preferred for copyright licenses. For the PAL website, the ideal license is *non-exclusive* (limited for the site), *perpetual* (forever), and *royalty-free* (no payments to the owner required). A sample letter for requesting a license for the PAL site follows as *Appendix C*.

To determine the copyright holder, you can generally assume the original author of a work made after 1978 is the copyright holder. The biggest factual question to answer is to see if the author made the work as part of employment to someone else. If so, their contract may designate the work as a "work made for hire", which would give the employer copyright ownership, not the author. This scenario most often occurs when a producer for film or theater is involved. For example, if an employee of a theater was responsible for taking the photographs related to productions at that theater, the theater would be considered the owner of the copyrights of the photographs. If, on the other hand, an outside photographer was engaged by a theater to take photos of a production, the ownership of the copyright would depend on the agreement between the theater and the photographer. Without a formal contract, determining ownership can be complicated. For work made for hire questions, an attorney should be consulted.

One way to begin to determine who owns the Copyright to a particular work is to order a search of the United States Copyright Office (the "Copyright Office") by going to www.copyright.gov/rrc/ and following the instructions on "how to request." Not every copyrighted work is registered with

the Copyright Office, and works (especially those between 1926 and 1978) may no longer be protected even when registered. You should also feel free to reach out to one of the rights groups mentioned in *Appendix A* for assistance.

The Guide will go through some of the more common works as examples.

Summary: Copyright protects the creative, original works that are fixed in a tangible medium. That owner is the only person permitted to grant permission under copyright law to use a work. The copyright owner is usually the original creator, but sometimes not them nor the people featured in the work (such as a performing artist).

Copyright owners have five exclusive rights to their work. They have the right to:

- Make copies of their work in various formats.
- Make derivative works (that is, to create new works based on or derived from the original work, such as producing a film based on a book)
- Publicly distribute their work.
- Publicly perform their work.
- Publicly display their work.

A Copyright owner also has the right to exclusively assign in full, or non-exclusively license in part, any of the rights to any person. Should a license agreement occur orally, it is best to send a follow up email reiterating and confirming that permission was granted and asking the copyright holder to reply if they believe otherwise.

B. Common Performance Materials Protected by Copyright

As discussed above, not every creation is protected by a Copyright. Below, we briefly discuss a few common examples of works professionals will likely come across while documenting their careers. It is always good practice to consult with a lawyer and to ask for permission to use any work on a personal website.

1. Photographs

In general, photographs should be licensed from the Copyright's owner, which more often than not remains with the photographer. Requesting information from various parties associated with a photograph, or consulting with an attorney, will be critical to determining if a license is required for the use of a particular photograph. A key exception is professional headshots where you paid a professional photographer for its commission. If these headshots were for the purpose of promotion, a license may already be implied based on the contract of paying for photographs, and such license would be perpetual for personal promotion, including on a site.

Summary: Photographs generally require a license to use, unless they are a promotional image the photographer was hired by a professional to take.

2. Audiovisuals: Film, TV, etc.

The copyright owner of film footage itself will generally be the producer or studio who created the film. However, the underlying content may require additional clearances. For example, film footage of a musical also counts as a public performance of the musical work, so the composer(s) and lyricist(s) need to give clearance permission. In general, the copyright owner, be it studio, financier, distributor, or other third party, should be able to grant you all the copyright permissions at once. Smaller, non-commercial projects are more likely to require more clearance. The New York Public Library maintains an archive of some theatrical performances. If footage cannot be cleared, it would still be acceptable (as discussed below) to provide a link to the footage on another site.

Summary: The question you should begin with is - who owns the Copyright rights to the footage you want to use? In the case of a project originally made as a film, TV show or digital production, the right to grant the permission you require is most likely held by a single entity – e.g., a distributor, financier or production company. You may still need more permission depending on the content involved.

Before attempting to clear rights to post a piece of film on a PAL Project website, see if you can link to an existing clip online; this will save you the trouble of securing a license.

3. Articles/Reviews

Articles and reviews must be cleared even if you have a physical copy. The publisher of the work is most likely to own the copyright, as most journalists assign their copyright as a “work made for hire.” Note that as reviewers may license their columns to many newspapers, they would be the copyright owner, not the publisher. Many newspaper and review publishers will have a “terms of use” or other copyright notice which will guide you to the appropriate clearance contact. It may also be listed as “republishing” or “permissions.” Some sites will include in their terms of use that non-profit, non-commercial, or educational uses are acceptable, and should be reviewed for existing permitting uses before reaching out for clearance. If you are unsure, consult an arts attorney or submit your request to the newspaper regardless.

Linking to an article or review without copying any of the content is one way to lead your website viewers to the information without copying the work and violating Copyright. We will discuss this in detail later.

Summary: Just because a review or article is in your physical possession doesn’t mean you have the legal right to do anything with the content. The original writer/reviewer/journalist may own the content of the article; though permission will likely need to be secured from the newspaper/magazine in which the article first appeared. If you cannot link to it, the best place to start seeking rights is the original publication.

4. Promotional Materials

Promotional materials, such as a movie poster or Playbill, also require licenses/clearance even though your name or likeness appears. For film, the owner is likely the same as the film's copyright owner, or the distributor handling marketing (not the graphic artist). For theater, the producer or theater company is the likely owner, but the photographer may also have copyright rights.

Summary: An advertisement was likely created for the underlying Work it is promoting, and is most likely owned by the company that produced the underlying Work or is distributing it.

5. Music

A recorded piece of music will generally have two separate sets of Copyright. One is for the musical composition, which covers the music and lyrics. The second is for the sound recording of the performance of that musical work.

For the copyrights of musical compositions, licensing is often done through performing rights organizations (PROs), such as ASCAP, BMI or SESAC, so that artists are not continually bothered by the task. See Appendix A for rights organizations that may assist you in acquiring licenses to reproduce musical works. Please note that licenses from PROs are known as “small rights,” and do not cover the public performance of a musical composition as part of stage performances (e.g., musical theater, concert dance). Uses of musical compositions in larger works and performances require “grand rights” directly from the Copyright's owner. Synchronizing a musical composition with an audiovisual work (e.g., videos and films) requires a “Sync” license.

For the copyrights of sound recordings of music, the licensing depends on the method of transmission of the sound recording. For the purpose of the PAL Project, license/permission should always be sought as the song will be performed by what is considered a “digital audio transmission” that requires licensing. The license can be sought from the SoundExchange. See *Appendix A* for information on SoundExchange.

Summary: Any piece of recorded music will have two separate copyright protections: that of the musical composition and that of the sound recording. The musical composition covers the music and lyrics of the composition. So, playing the notes on an instrument and singing the lyrics without permission can violate Copyright and playing a recording without permission can violate Copyright separately. Organizations that license musical compositions and digital sound recordings are listed in *Appendix A*.

6. Choreography

Copyright law considers choreography to consist of non-social-dance steps that are organized into coherent patterns, which also include pantomime of acting out characters and situations.

The originality and fixation requirements discussed above must be met before the U.S.

Copyright Office will register these works. The following social dance steps, simple routines, and ordinary motor activities have failed to qualify for protection due to a lack of originality: jumping jacks and walking; ballroom, social, and folk-dance steps; runway modeling; cheerleader routines; sports plays; basic martial arts movements; and exercise programs, such as standard aerobics, gymnastics, yoga, and hydroaerobics. Choreography notated in a form of dance notation on paper, or a recording of the choreography's performance, so long as the dance itself is original, will be sufficient for obtaining and registering copyright. Additionally, note that copyright in any underlying music is separate.

Summary: Dance and pantomime pieces are protected by Copyright, however, they must be recorded in a tangible form. Copyright in any underlying music is separate.

7. Costume Design

Designs for clothing items, such as costumes, were traditionally deemed uncopyrightable under U.S. law. This is because under Copyright Law designs of "useful articles" cannot receive copyright protection. More recently, however, the Supreme Court decided a case regarding cheerleader costumes that changed this view, and some costume designs may now be protected by Copyrights. A costume design may be protectable if it (1) can be perceived as a two or three-dimensional work of art separate from the useful article, and (2) would qualify as a protectable pictorial, graphic, or sculptural work. For example, one court has held that a banana costume was (1) imaginable as a sculpture and (2) this imagined sculpture could qualify as protectable. Design guilds and unions have taken specific positions on rights separate from copyright law, and thus permission may still be necessary, even if it is out of industry custom. The law is still changing in this area, so it is best to consult an attorney regarding costume designs.

Summary: Costume designs can be protected by copyright, however, it is difficult establish.

8. Set, Lighting, and Projection Design

Pre-production materials for original set, lighting, and projection designs are protectable by Copyright Law. It is more difficult to tell whether Copyright protects a design that is built or loaded into theaters. For example, lighting itself may not be seen as a "tangible medium" of fixation, even if it is viewable for more than a short duration as copyright law requires.

To the extent design elements are explicitly mentioned in a script, a designer's work may be considered a "derivative work" of the play itself, and thus a designer may not be the owner of the Copyright associated with the design.

Finally, we note that designer contracts may govern whether a designer or the theater/producers own the copyrighted design. United Scenic Artists Local USA 829, the union representing designers, has a blanket agreement with various producing organizations. Under this blanket agreement, the producers acknowledge designers retain any property interest in their work. In most instances, the designer likely owns copyrights in original works, but asking about the contracts they signed may be necessary.

Summary: Set, lighting, and projection designs are copyrightable works. Copyright requirements can be met through pre-production materials. However, professionals should be aware that their contracts may govern if they own their copyrightable designs.

9. Scripts and Notes

Scripts would likely qualify as copyrightable literary works. Screenwriters for film may own the copyright, but usually the producer or studio owns the copyright. Playwrights usually retain copyright, but as mentioned above, ownership could be assigned or licensed to others. Any handwritten notes in a physical copy of a script would remain the copyright of their author, unless there is an employment agreement or other work for hire scenario.

Summary: If you have written notes in the margins of a film/TV script or a play where you provided services as an actor or director, you will need to determine whether or not you own those notes, provided those notes as a work-for-hire or assigned your Copyright rights to those notes. Notes by a third-party are likely owned by that third-party or the production company that employed them.

10. Contracts

Form contracts, such as those generally used in the performing arts, may or may not be copyright protected. More importantly, most contracts have a confidentiality provision that theoretically restricts sharing.

Summary: Before you post any pages from a contract, you should review the contract to see if confidentiality terms prevent sharing; if so, you cannot post any part of it. Consult an attorney.

C. Common Exceptions to Clearing Copyright

1. Facts and Fact Organization

Copyright does not protect facts (such as the name of a copyrighted work and its author(s)), so you are free to describe true incidents you experienced or historical facts without copyright clearance. Something that is factual but also partially creative, like a ticket stub, may either be unoriginal, or so fact based as to not meet copyright eligibility. While copyright never vests in the facts themselves, it may vest in the *selection, organization, and presentation* of the facts, such as how a Playbill spaces credits. In that case, you would want to obtain copyright clearance before copying the structure, but highly obvious structures (like alphabetical order), are not considered copyrightable.

Summary: Facts are not copyrightable, so you are free to post factual material with no creative elements without seeking copyright permission. This often includes the title to works and the author of the work's name. Do not simply copy passages from any non-fiction work as some of the design elements of the greater Work may be covered by copyright and require permission.

2. Links

Copyright law allows someone on the Internet to link to a copyrighted work without obtaining a license. More specifically, this applies to a “click thru” link that opens another webpage. When links are “embedded” so they appear on the new site rather than redirecting the viewer to the original site, this requires copyright clearance. For example, having a person click on a link to playbill.com to a specific show's documents does not require permission because all that has been shared is a way to get to the copyright owner's website. By contrast, having a YouTube video displayed on a website other than YouTube.com is “embedding” the video, and would require making sure that you have the permission of YouTube and the person who owns the copyright to the video on YouTube. Please be aware that if you do link to another website, you should regularly check that the link remains active (that is, that the website you are linking to continues to exist).

Summary: You may freely link to material on other sites, but do not embed the material onto your site without permission of the copyright owner.

3. Public Domain

Works that could receive copyright but are not *currently* protected are considered part of the public domain. The concept of a work being part of the public domain is only with regard to Copyright Law – confidentiality, privacy, or publicity rights discussed in this Guide may still apply.

Works enter the public domain for three reasons: the copyright term has expired in full, the copyright owner failed to follow the renewal procedure (only applies to works between 1926 and 1978), or the work was placed in public domain, either on purpose or by accident. The U.S. Government, for example, must place all of its copyrightable works in the public domain by law.

Currently, works *published* (which can be later than when they were created) in the U.S. before 1926 have entered the public domain. We strongly recommend seeking legal advice about the public domain for two key scenarios: (1) works which were unpublished before January 1, 1926, and were then later published, and (2) any works created after January 1, 1926, and before 1978.

Summary: The public domain involves works that are not currently protected by Copyright in the U.S. Works in the public domain can be used in the U.S. without permission so long as no other legal concepts apply. Never assume that a work is in the public domain; it is best to consult a lawyer before relying on the public domain concept.

4. Fair Use

Fair use is a legal doctrine that enables unlicensed use of a Copyright-protected work in certain circumstances. It should be emphasized that fair use is normally treated as a *defense*. That means, once someone accuses you of copyright infringement, you may bring forth the defense of fair use. You should consult a lawyer before relying on fair use as the defense is based on the specific facts of each case. The provisions of the U.S. Copyright Law governing fair use only provide general guidelines. The exact text of 17 U.S. Code § 107 - Limitations on exclusive rights: fair use is as follows:

Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—

- (a) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- (b) the nature of the copyrighted work;
- (c) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (d) the effect of the use upon the potential market for or value of the copyrighted work.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

Courts weigh all four of the factors set forth above (as well as other factors they determine are relevant) in deciding whether or not use of a work is a fair use, but there is no formula or clear set of guidelines that you can follow to be guaranteed fair use protection.

Summary: Fair use is a legal doctrine that enables use of copyright-protected works in certain circumstances without permission. It should be emphasized that fair use is a legal *defense* to a copyright lawsuit. That means, if you are sued for copyright infringement, once you are in court you may bring forth the defense of fair use. So, it is not a good idea to depend on fair use when deciding how to use a work protected by copyright.

5. Creative Commons

If a work is offered through Creative Commons (“CC”) then that work can be used for free, but the user must follow the conditions in the CC license. Many YouTube videos are marked as CC. Go to the CC website to see the types of licenses are available and to search for the materials you wish to use: creativecommons.org

Summary: Essentially, the CC license allows the licensor to retain the Copyright while others use the Copyright protected work within the boundaries of the CC license.

D. Further Copyright Considerations

1. Including a “Credit Line”

An attribution line that accompanies a work holds information that the author of a work requests to be included next to the work wherever it is used, and commonly includes author, title, date of creation, and © (Copyright symbol). It must be emphasized that crediting the author or Copyright owner of a work does not protect you from a claim of Copyright infringement. This is a very common misconception. However, when you do negotiate with a Copyright owner for a license to use a work, you should ask what type of Credit Line is required to go along with the work. Many licensors have standard Copyright credit lines they require to be posted with any Work they license for use such as: “Used with Permission © The Entertainment Community Fund 2018.”

Summary: Crediting the author of a work does not permit you to use that work without permission from the Copyright owner, but it may be a requirement within their Copyright license with you.

2. Deceased Author/Orphaned Works

Once a Copyright’s owner dies, their copyrights usually pass to the estate beneficiaries and remain in full force and effect. The mere death of a Copyright owner does not place the work in the public domain.

Summary: If you use a Copyrighted work owned by someone who has died, unless their death was nearly a century ago, it is likely still protected by Copyright.

3. Works Registered with the Copyright Office

Some works are registered with the Copyright Office, but a work does not need to be registered to be protected by Copyright. A search of the Copyright Office records may make it easier for you to identify the current Copyright owner of a Work, but it cannot be the only place you look.

Summary: Although a work does not need to be registered to have and maintain Copyright protection, the Copyright Office can provide information on the owner of those works that have been registered.

4. International Works

As a general matter, each country has its own intellectual property laws that govern intellectual property in that country. However, international treaties make the works of one country protected in other countries and provide certain minimum levels of protection. The most significant conventions governing the protection provided by one country to another country's nationals include: The Berne Convention for the Protection of Literary Artistic Works; the TRIPS portion of the WTO Agreement; the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. For guidance on use of materials only created, published and distributed outside of the United States, you should seek help from an attorney.

Summary: To use works outside of the United States, this Guide does not apply. Consult an appropriate attorney.

E. Copyright Licensing Organizations and Departments

There are several groups that represent large numbers of authors that can be helpful in securing Copyright licenses. The major groups for this are: American Society of Composers, Authors, and Publishers, Broadcast Music Inc., Society of European Stage Authors and Composers, and Artists Rights Society (see *Appendix A*). In addition, there are licensing departments for film stills and clips, and for likenesses. The appropriate websites and contacts are listed in an *Appendix A*.

Summary: Many individual artists outsource to agencies that handle intellectual property licenses for them. Check *Appendix A* for a list of possible agencies to contact prior to seeking out artists.

III. Further Legal Considerations

Beyond copyright, professionals should consider laws surrounding privacy, publicity, and defamation before posting materials on their website.

The right of publicity is to protect a person's control over the commercial use of their image, and to prevent unauthorized or intrusive uses of their image. These rights are based under state law, not federal, and thus vary from state to state. In New York, the right of publicity prohibits the use of the name, portrait or picture, likeness, or voice of any person for advertising purposes or for the purposes of trade without prior consent. New York's right of publicity survives the person's death for up to 40 years. Non-commercial uses, such as the PAL site, are often permitted, but you need to know where the person died to confirm that state's laws.

Privacy rights are often described as the "right to be left alone" and vary from state to state. It is important for you to consult with an attorney if you plan to include on your website material which, among other things, (a) might be embarrassing to someone or bring them into disrepute, or (b) reflects private information about that person that the public has no right to know, or (c) could be viewed by someone as infringing his/her right to control the commercial use of his/her identity.

Defamation law deals with statements that injure a person's earnings potential, or causes the person mental pain and suffering, humiliation, or lost reputation. Normally, the statement being true is a complete defense to a claim of defamation, but that may require a person's ability to prove that the statement was true. When telling stories or sharing facts about others as part of your PAL website, you want to consider whether the statement you make may harm the person you're writing about and whether you have any documentation to support the statement. If you do wish to share a controversial story that is important to you, you should consult with an attorney about how best to convey it without defaming someone.

Summary: The rights of publicity and privacy and rights against defamation are separate and unrelated to Copyright. Privacy and publicity rights and rights against defamation protect the *personal interests* of the people who you may be identifying by name or image in materials on your PAL Project website. We recommend that you consult with an attorney prior to using materials on your PAL Project website which feature other people.

Appendices

Appendix A - Rights Organizations Contact Information

There are groups that represent large numbers of authors and can be helpful in securing Copyright licenses. Below are some of the licensing companies to search before pursuing an author directly.

American Society of Composers, Authors, and Publishers Licenses works for songwriters, composers, and music publishers.

Broadcast Music Inc. Licenses works for songwriters, composers, and music publishers.

Society of European Stage Authors and Composers (SESAC) Licenses works for songwriters, composers, and music publishers.

Artists Rights Society Licenses works for visual artists.

Allied Artists Licenses only from post-1980 Allied Artists Pictures library.

Disney Consumer Products Licenses the use of movie stills, clips and audio from titles in the Walt Disney Pictures, Buena Vista Pictures, Touchstone Pictures, Hollywood Pictures, Miramax Films and Dimension Films libraries.

MGM Clip+Still: Licenses the use of movie stills, clips and audio from titles in the post-1982 MGM, post-1996 Samuel Goldwyn Films, United Artists, Orion, Polygram and Cannon libraries.

Samuel Goldwyn Films Licenses the use of movie stills, clips and audio from titles in the Samuel Goldwyn Sr., pre-1996 Samuel Goldwyn Jr., and portions of the Rodgers & Hammerstein libraries.

Sony Pictures Entertainment Clip & Still Licensing Licenses the use of movie stills, clips and audio from titles in the Columbia Pictures, TriStar Pictures, Screen Gems, and Sony Pictures Classics libraries.

Universal Studios Media Licensing Licenses the use of movie stills, clips and audio from titles in the Universal Pictures, Universal/International Pictures and International Pictures libraries.

Warner Bros. Licensing Department Licenses the use of movie stills, clips and audio from titles in the Warner Bros., First National Pictures, pre-1982 MGM, pre-1948 RKO and Turner Entertainment libraries.

Screen Actors Guild: SAG-AFTRA The place to start when attempting to contact a living performer about getting permission to use their image or likeness.

CMG Worldwide Licenses the image and likeness of dozens of movie stars and celebrities.

Global Icons Represents the estates of stars like Bing Crosby, Marlene Dietrich and Greta Garbo.

MODA Entertainment Licenses for the Gary Cooper, Lauren Bacall, Humphrey Bogart, Betty Garrett, Joel McCrea, Alan Ladd, Celeste Holm, Frances Dee, John Garfield, Robert Mitchum, Patricia Neal, and other stars.

Greenlight Rights Manages personality rights for deceased celebrities, including Steve McQueen and Mae West.

SoundExchange A non-profit collective rights management organization that is the sole organization designated by the U.S. Congress to collect and distribute digital performance royalties for sound recordings.

Appendix B - *Helpful Links: Online Resources for Career Information*

[Actors' Equity](#)

[Channel 13](#)

[Directors Guild of America](#)

[Getty Images](#)

[HB Studio Production Archive](#)

[IATSE](#)

[Internet Broadway Database](#)

[Internet Movie Database](#)

[Internet Theatre Database](#)

[La Mama Archives](#)

[Lortel Archives](#)

[NY Times](#)

[Playbill Archives](#)

[SAG-AFTRA](#)

[The Broadway League](#)

Appendix C - Template Letter Requesting Rights [Use your personal letterhead.]

[Date]

Dear _____,

I am a professional in the performing arts/entertainment who appeared/produced/directed/ designed [on stage, screen, etc.] for (in [production/film/broadcast]). I understand that [you/your company] own the rights for the attached work. I am writing to obtain your permission to display such work, on a new website (the "Website") created in conjunction with the **Performing Arts Legacy Project** ("PAL"). The PAL was created by the non-profit Research Center for Arts and Culture (the "RCAC") at the Entertainment Community Fund, formerly the Actors Fund, in New York City. The goal of the PAL is to help older professionals in the performing arts and entertainment to document and share their own legacies with the public, particularly other professionals, scholars, teachers, researchers and others.

The [website](#) is educational, for non-commercial purposes, and a service to the performing community. Joan Jeffri, PAL's Founder, is happy to discuss the PAL, the Website and RCAC further at any time.

A more complete summary of the PAL is attached to this request. I also attach a summary of the materials for which I am asking for a non-exclusive, royalty-free, license to display such material on the Entertainment Community Fund's Performing Arts Legacy Website. I am greatly appreciative of your consideration of my request to use this only for the Website and for the benefit of representing this important legacy.

If you have your own rights form, and prefer me to use that, please send it along, and please send exactly how you wish us to credit these items.

Thank you for helping us. Please feel free to contact me with additional questions or Joan Jeffri (Founder of the Research Center for Arts and Culture) at 212.221.7300 x 187 or jjeffri@entertainmentcommunity.org.

Your Signature

Name (print)

Performing Arts Legacy

Description

Since 2016, the **Performing Arts Legacy Project**, created by the Research Center for Arts and Culture at the Entertainment Community Fund, has documented the work of professionals in the performing arts and entertainment age 62 and over. By digging deeper into the histories and memories of those workers on whom the industry was built, it can recognize these professionals' life review with dignity as they keep on keeping on.

The **Performing Arts Legacy Project** is an online platform to capture professionals' legacies through: oral histories, a documentation platform to capture memorabilia, experiences, videos, reviews, etc, and a captured Life Review process that records the professional as they review their lifetime of career-related materials. This "living archive" is being made available nationally with local community involvement and has guides to use the platform, clear the rights to materials, upload oral histories, and capture life review. It is also a regular program at the Entertainment Community Fund, with links from related unions and libraries.

The professionals represent a wide experience—from front of stage to back of stage our professionals have worked in Broadway, off and off-off Broadway, classical and regional work, film and television, performance art, dance, music, and more. They range in age from their 60s to their 90s.

The Performing Arts Legacy Project:

- ***Provides material for performing arts training programs*** to give young professionals a more realistic idea of the realities of a professional performing career.
- ***Creates a model that fights stereotypes of aging*** rampant in performing arts industries.
- ***Embraces Intergenerational Learning*** because forming relationships with people across generations brings validation, more confidence, and satisfaction that their creations and their individuality can last beyond their lifetimes.
- ***Promotes a model for positive, healthy aging*** through life review. Gene Cohen demonstrated that engagement in the arts results in reduced medications, fewer doctor visits, less loneliness and depression.

In addition, as professionals review their lives, the Entertainment Community Fund provides aid in transition (financial literacy, making a will, alternative careers), connects professionals with social workers, and programs activities to fight social isolation and disengagement.

The **Entertainment Community Fund**, formerly the Actors Fund, is a national organization that assists professionals and entertainers in need, crisis or transition. The **RCAC** offers data, information and programs in service of artists and the arts.